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July 28, 2025

BY ELECTRONIC TRANSMISSION

Hon. Lorna G. Schofield
United States District Judge
United States District Court for
the Southern District of New York
500 Pearl Street
New York, NY 10007

Defendant shall file a response to Plaintiff's pre-motion letter by **August 1, 2025**. A pre-motion conference regarding Plaintiff's proposed motion to compel will be held on **August 5, 2025, at 5:00 P.M.** The conference will be telephonic. The parties shall call (855) 244-8681 and enter the access code 23111938649.

The parties are encouraged to meet and confer in an effort to resolve this matter, in which case the conference will be cancelled.

Dated: July 29, 2025
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: DBW Partners, LLC v. BTG Pactual Asset Management US, LLC (S.D.N.Y., No. 1:24-cv-09836-LGS)

Your Honor:

On behalf of plaintiff in the above-refenced case, DBW Partners, LLC d/b/a The Capitol Forum ("Capitol Forum"), we are filing this letter-motion in accordance with Section 3.A.1 of your Honor's Individual Rules and Procedures for Civil Cases. We request a pre-motion conference to address a motion to compel discovery that Capitol Forum intends to file against defendant BTG Pactual Asset Management US, LLC ("BTG").

This is a copyright case in which Capitol Forum alleges that BTG illegally sent copyrighted Capitol Forum publications to a third party, Market Securities, LLC. There is no question that publications were transmitted to Market Securities by Cristina Suarez of BTG. This has been established in a related case currently pending in the United States District Court for the District of Columbia, *DBW Partners, LLC v. Market Securities, LLC*, Civil Action No. 22-1333 (BAH) (the "DC Litigation").

This discovery dispute relates to the extent of the violations: how many times the Capitol Forum articles were sent by Ms. Suarez, and particularly, the efficient presentation of this evidence at trial.

In the District of Columbia action, Market Securities produced approximately 3.1 gigabytes of text messages from the Bloomberg platform used by Market Securities and BTG Pactual to preserve communications pursuant to FINRA and SEC regulations (over 1.5 million pages). Market Securities also represented that the number of violations could be determined

through an analysis of this database. Capitol Forum accordingly retained a forensic expert to analyze the data base.

Based on this review, Capitol Forum's expert distilled the Bloomberg chat evidence into a format that could be easily presented to a jury. He did so by identifying each asserted violation and then isolating the relevant chat evidence to support the violation. He also incorporated the data from Capitol Forum which showed the date and times when Ms. Suarez accessed the Capitol Forum publications.

To ensure that there would be no admissibility objections at trial, Capitol Forum then prepared an extensive set of Requests for Admission, setting forth each Capitol Forum publication that was infringed, along with the supporting evidence of the violation, including the Suarez accession data. An example of these Requests, for the March 3, 2020, Capitol Forum publication, is attached to this letter. It shows that Suarez accessed the article at 20:01 (UTC). One minute later Suarez tells Jennifer Donaker of Market Securities: "please note the watermark." Donaker then says "TY. Oh I can't miss the watermark LOL, to which Suarez replies "LOL." Donaker then sends out a summary of the Capitol Forum article and says that she cannot send the article itself because it is watermarked. A similar Request has been prepared for each of the asserted violations.

BTG filed its objections to Capitol Forum's Requests for Admission on July 23, 2025, refusing to respond to any request because they are "overbroad, unduly burdensome and not proportional to the needs of the case," apparently conceding relevance. According to BTG, the requests are improper because (1) they "seek to verify that the copy/pasted portions of the Bloomberg chat messages are accurate; (2) because they are an "inaccurate and incomplete copying of the Bloomberg chat messages;" and (3) because "they seek to verify vague and ambiguous details, including publication and access times."

As to the first point, BTG is correct that Capitol Forum is seeking to verify the accuracy of the chat messages—and that is the essential purpose of a request for admission: to obtain admission of facts already known in the litigation. On the second point, if there are inaccuracies or incompletions, we need to resolve those issues to ensure a smooth functioning trial. Simply put: BTG should identify those problems now, if they exist. As to the third point, the publication and access times are hardly "vague and ambiguous detail." The timing of the Capitol Forum publications and the Suarez access times are critical elements to enable the jury to assess the violations. This information has been provided to BTG and there is no factual dispute that it is accurate.

We spoke with defense counsel on July 24 to attempt to resolve the issue and were told that BTG was unable to respond because of the difficulty of sorting through the Market Securities production. We therefore organized the Market Securities data for each of our Requests for Admission, and provided it to defense counsel. Nevertheless, BTG continues to refuse to provide substantive responses to Capitol Forum's Requests for Admission.

Capitol Forum therefore requests a pre-motion conference to address this discovery dispute.

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Counsel for Plaintiff

Cc by ECF: Counsel for BTG Pactual

ATTACHMENT

REQUEST FOR ADMISSION 4

On 3/3/2020, at 20:00, Capitol Forum published an article titled Yageo/Kemet: Nevada Plant Looms As Potential Stumbling Block

On 3/3/2020, at 20:01 Suarez accessed the Yageo/Kemet article

On 3/3/2020, at 20:02, the following conversation occurred:

03/03/2020 20:02:57 CRISTINA SUAREZ, BTG PACTUAL ASSET MA Says pls note the watermark

03/03/2020 20:07:16 JENNIFER DONAKER, MARKET SECURITIES LL Says Yes yu

03/03/2020 20:07:18 JENNIFER DONAKER, MARKET SECURITIES LL Says TY

03/03/2020 20:07:22 JENNIFER DONAKER, MARKET SECURITIES LL Says Oh I can't miss the watermark lol

03/03/2020 20:07:29 CRISTINA SUAREZ, BTG PACTUAL ASSET MA Says lol

On 3/3/2020, at 20:11, Donaker wrote the following blast:

03/03/2020 20:11:35 JENNIFER DONAKER, MARKET SECURITIES LL Says
***KEM/YAGEO - CapForum is out stating the Nevada plant that produces a metal in powder form that Defense Department contractors use in vital electronic components, looms as potential stumbling block. The unique strategic value of NV plant and advantages of KEM's vertically integrated tantalum business will probably raise red flags during CFIUS per security experts. If disruption occurs, DOD would find few alternative tantalum powder suppliers. Boeing, United Tech, Lockheed and BAE, the largest tantalum capacitor customers are restricted in their ability to switch suppliers. CFIUS could insist on some US control over the KEM plant.

On 3/3/2020, at 20:14, Donaker said to Suarez:

03/03/2020 20:14:34 JENNIFER DONAKER, MARKET SECURITIES LL Says Awesome I love it

03/03/2020 20:14:35 JENNIFER DONAKER, MARKET SECURITIES LL Says ty

On 3/3/20, at 20:17, Donaker stated:

03/03/2020 20:17:06 JENNIFER DONAKER, MARKET SECURITIES LL Says
When I read this article (**I can't' send bc its watermarked**), it makes me wonder though how a mitigation effort even works if there is also a switching problem for the big guys like Boeing etc. But I guess it means if they promise to keep in US run, via mitigation then maybe it does work